

IOWA STREAMLINED SALES TAX ADVISORY COUNCIL

2012 Report to the

IOWA GENERAL ASSEMBLY

January 22, 2013

Council Created; Council Charge

In 2003, House File 683, Section 204 created the Iowa Streamlined Sales Tax Advisory Council. (Please see Appendix A for a list of members as of 12/31/12). The Streamlined Sales Tax Advisory Council was codified in statute at Iowa Code §423.9A in 2006. The Council reviews, studies, and submits recommendations regarding the Streamlined Sales and Use Tax Agreement (SSUTA).

Meetings

The Council met one time this year, on October 25, 2012. The meeting was held at the Iowa Department of Revenue in the Hoover State Office Building in Des Moines. Members were also able to participate remotely by telephone. Various issues were discussed at the meeting. A copy of the 2012 meeting agenda is attached to this report as Appendix B and minutes of the meeting are attached as Appendix C. This information may also be viewed at: http://www.iowa.gov/tax/taxlaw/SLSTmeeting_agenda_minutes.html.

Significant Developments

In 2012 the Streamlined Governing Board continued to work toward passage of federal legislation dealing with remote sales. This year the U.S. Congress has two pieces of remote sales tax collection legislation available for vote. On October 13, 2011, The Marketplace Equity Act (H. R. 3179) was introduced which would give all states collection authority and require minimum simplification requirements. This bill has had committee hearings and now has 53 cosponsors. On November 9, 2011, The Marketplace Fairness Act (S.1832) was introduced which would give collection authority to Streamlined member states and non-Streamlined member states who adopt some simplification requirements. This bill now has 20 cosponsors, has been read twice, and has been referred to the Committee on Finance. These pieces of legislation represent the best effort so far for Congress to move forward on this issue. It is possible that, if passed, this legislation will require some form of vendor compensation for all sellers. This would be an issue for Iowa and would require some form of legislation as, at this time, no compensation is allowed to Iowa sellers.

The Governing Board continues to address issues of uniform definitions. This year the Governing Board voted to give initial approval to a rule allowing Member states to tax the discounted price of “deal of the day” vouchers if the voucher clearly states the reduced price paid by the customer. This rule requires a second affirmative vote before becoming effective.

The Department submitted its annual taxability matrix and certification of compliance to the Governing Board. The Governing Board then conducted its yearly recertification exercise to ensure member states are in conformance to the Agreement. Iowa was found by the Governing Board to be in compliance. This finding was based in part on the Department’s commitment to address with the 2013 Legislature the issue of including food grade carbon dioxide gas as a food or food ingredient. The SSUTA now defines food grade carbon dioxide gas used in table top soda machines as a food or food ingredient. The Department’s 2013 Streamlined Sales tax bill will amend Iowa Code § 423.3 to make this change.

Updated Information

Iowa Code § 423.9 (3) authorizes four individuals to serve as Iowa’s representatives on the Governing Board. One is to be a Representative of the House and Representative Guy Vander Linden has been appointed to serve in this capacity. One representative is to be a Senator and Senator William Dotzler serves in this capacity. Two of Iowa’s representatives are from the Executive Branch. One is Director of Revenue, Courtney Kay-Decker and the other is Administrator of Tax Policy and Communications Services, Victoria Daniels.

As of December 31, 2012 there were 1,850 registrants in the streamlined project. This represents an increase of 100 registrants during 2012. Currently, 260 are model 1 sellers and use certified service providers (CSP) and 1,590 are model 4 sellers and calculate and submit their own taxes.

The Council and the Iowa Department of Revenue participated in the Spring Governing Board meeting in Milwaukee, Wisconsin along with the annual Streamlined Sales Tax Governing Board meeting and activities in Salt Lake City, Utah. Council members Senator William Dotzler, Dale Busacker, Warren Townsend, and Victoria Daniels attended.

Pending Issues

The Council would like to draw the General Assembly's attention to the following issues as the streamlined process moves forward this year:

Sourcing of Digital Goods. Workgroups involving the State and Local Advisory Council and Business Advisory Council to the Governing Board continue to meet to address drafting general rules for the sourcing and taxing of digital products and services. At this time Iowa does not have a specific imposition section for digital goods.

Credit for Taxes Paid to Other States. The State and Local Advisory Council and Business Advisory Council continue to address the issue of credit allowed for sales or use taxes paid to another state. Iowa currently allows credit for sales taxes paid to another state however other issues being discussed include proper sourcing, types of taxes paid, and what is included in taxes paid.

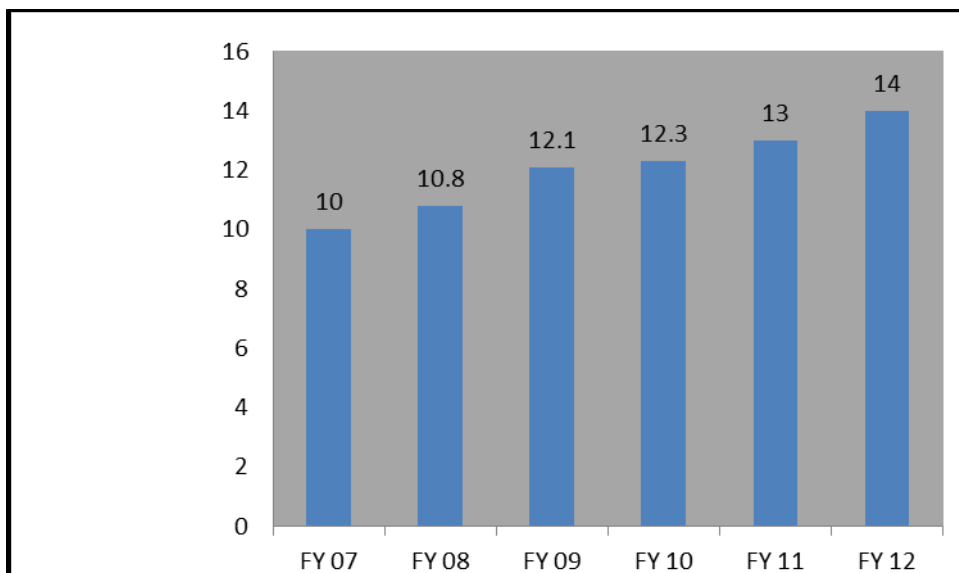
Remote (Cloud) Access to Prewritten Computer Software. The project adopted amendments and rules related to access to computer software however it did not deal with "remote" access. State and Local Advisory Council and Business Advisory Council to the Governing Board workgroups are now meeting to discuss options which would allow Streamlined states to correctly source and tax remote access to prewritten computer software.

Remote Sales Revenue Since Inception

The Streamlined Sales Tax Governing Board was formed in October, 2005 with remote seller registration and volunteer collections following shortly after. Iowa's remote sales collections since that time are as follows:

FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12	TOTAL
\$5.00	\$10.00	\$10.80	\$12.10	\$12.30	\$13.00	\$14.00	\$77.20

Dollars in Millions



Statutory Responsibilities Discharged

With submission of this report, the Council fulfills its reporting obligation as charged in Code Section 423.9A. The Council will continue to meet and communicate with the Governor and General Assembly. At the conclusion of 2013, it will file its tenth annual report.

APPENDIX A

IOWA STREAMLINED SALES TAX ADVISORY COUNCIL

Members on December 31, 2012

Courtney Kay-Decker, Chair
Iowa Department of Revenue
Des Moines, IA

Victoria Daniels
Iowa Department of Revenue
Des Moines, IA

Senator William Dotzler
State Senate
Des Moines, IA

Michelle Hurd
Iowa Grocery Industry Association
Des Moines, IA

Jim Henter
Iowa Retail Federation
Urbandale, IA

Dick Koberg
Dica Marketing
Panora, IA

Ann Stocker
Cargill
Eddyville, IA

Chris Theisen
Theisen's Home-Farm-Auto Stores
Dubuque, IA

Warren D. Townsend
Wal-Mart Stores, Inc.
Bentonville, AR

Dave Krutzfeldt
Interpower Corporation
Oskaloosa, IA

Nicole Molt
Iowa Taxpayers Association
Des Moines, IA

Marc Michaelson
Casey's General Stores, Inc.
Ankeny, IA

Monti Miller
The Learning Post
Des Moines, IA

Representative Guy Vander Linden
House of Representatives
Des Moines, IA

Stephen W. Roberts
Davis, Brown, Koehn, Shors & Roberts PC
Des Moines, IA

Michael C. Rubino
Deere & Company
Moline, IL

Dale Busacker
Grant Thornton
Minneapolis, MN

Kristin Kunert
NFIB/Iowa
Des Moines, IA

APPENDIX B

IOWA STREAMLINED SALES TAX ADVISORY COUNCIL

October 25, 2012; 10:00 A.M.

Hoover State Office Building
Conference Room 430
Des Moines, Iowa

Agenda

I. Welcome & Introductions

II. Policy Issues Under Discussion

- i. Deal of the Day Vouchers
- ii. Credit for Taxes Paid to Other States
- iii. Sourcing of Digital Products
- iv. Remote Access to Prewritten Computer Software
- v. Essential Clothing

III. Certificate of Compliance and Taxability Matrix/Annual Recertification

IV. Legislation & Rules

Rules

- Ch. 240: Effective Dates of Taxation Rate Increases or Decreases – eff. 12/5/2012
- Ch. 223: Sourcing of Services – eff. 10/10/2012
- Ch. 231: Sales of Candy – eff. 9/26/2012

2013 Streamlined Sales Tax Bill

- Food-grade carbon dioxide

V. Update on Registration & Revenue Tracking

VI. Federal Legislation

- Status and variables
- Preparations
 - Department meetings
 - Consumer's Use Tax
 - Education/outreach needs

VII. Future of Streamlined

VIII. Other Issues and Questions

IX. Next Meeting?

X. Adjourn

APPENDIX C

Iowa Streamlined Sales Tax Advisory Council Meeting Minutes
Hoover State Office Building
October 25, 2012

Members Present: Courtney Kay-Decker, Victoria Daniels, Michael Rubino, Stephen Roberts, Jim Henter, Representative Guy Vander Linden, and Marc Michaelsen.

Members via Telephone: Dale Busacker, Dave Krutzfeldt, Chris Theisen, and Ann Stocker.

Others present: Larry Paxton, Cody Edwards, Alana Stamas and Kathy McAninch, IDR staff

I. Welcome & Opening Comments – Victoria Daniels and Courtney Decker.

II. Policy Issues under Discussion.

- A. Deal of the Day Vouchers.
 - 1. Groupon rule voted on in Salt Lake City with 17 in favor and 4 against.
 - 2. Defines vouchers and provide examples of when and how sales tax would apply.
 - 3. Examples of how sales tax would apply:
 - 1. If you get a voucher worth \$40 for \$20. If the value of \$40 is on voucher then sales tax on the \$40 would apply. If the voucher has the purchase price of \$20 printed on the face then the sales tax would apply to the \$20.
 - 2. Sales tax is collected when voucher is used.
 - 4. Those opposing the rules wanted other voucher issues to be defined such as:
 - 1. How is sales tax applied if taxpayer gets a \$20 voucher offer for free if they get four other people to buy a voucher?
 - 2. When voucher expires do taxpayers get refund or does a lesser amount apply to the voucher and how is sales tax applied.
- B. Credit for Taxes Paid to Other States. Issues include:
 - 1. Can states deny credit to non-reciprocal state?
 - 2. How is sales tax applied when item sourced in one state and used in another.
 - 3. Local Taxes-Taxpayer buys item in a state with a lower tax rate and brings into Iowa to use. Can take difference and allocate in Iowa - who gets the sales tax local or state?
 - 4. A complication for Iowa is that it has no local option use tax. If an audit is performed and taxpayer proves paid tax in another state and brought it into to Iowa for use, and other state had local option use tax, how is the sales tax applied?
- C. Sourcing of Digital Products.
 - 1. When does possession of the goods take place: during the download or upon receipt of the product?
 - 2. Challenge for businesses is that they do not know where the customer accesses or purchases the digital goods so they do not know which state's tax applies.
 - 3. Downloads can occur in a retail establishment or walking down the street. It could be very difficult to source these transactions.
 - 4. Washington State currently taxes digital products has established procedures in place. Iowa currently does not tax digital goods.

5. The primary issue with digital goods is the principle of tax equity. If taxpayers pay sales tax for a book purchased at a retail book store then should also pay sales tax on the same book if they download it.
- D. Remote Access to Prewritten Computer Software.
 1. Cloud computing-Going into “the cloud” and to make use of software. Taxpayer never takes possession of the software.
 2. Three Streamlined Sales Tax states currently tax remote access to prewritten software as tangible personal property. They are Indiana, Michigan, and Utah.
 - E. Essential Clothing.
 1. This issue directly concerns the state of Rhode Island (a Streamlined state).
 2. Rhode Island is surrounded by states that exempt clothing items under \$250 from sales tax and define them as essential clothing. They have pending legislation that would exempt essential clothing.
 3. In 2009 an amendment to the Agreement was allowed for essential clothing for the state of Massachusetts in order for them to become a member state. As of yet they have not become a member of Streamlined Sales Tax Agreement.
 4. Rhode Island has presented in their legislation that if federal law is passed for remote collection then their sales tax exemption for essential clothing is voided.
 5. Iowa is not in favor of making yet another amendment to the Agreement to allow an essential clothing exemption.
- III. Certificate of Compliance and Taxability Matrix/Annual Recertification.
- A. Iowa had some minor changes to make to its taxability matrix but was found to be in substantial compliance with the Streamlined Sales Tax Governing Board Agreement.
- IV. Legislation and Rules
- A. Chapter 240: Effective Dates of Taxation Rate Increases or Decreases-Effective 12/5/2012.
 - B. Chapter 223: Sourcing of Services-Effective 10/10/2012.
 - C. Chapter 231: Sales of Candy-Effective 9/26/2012
 - D. 2013 Streamlined Sales Tax Bill: only one issue; add food-grade carbon dioxide to definition of food.
- V. Update on Registration and Revenue Tracking.
- A. Iowa for FY 12 received \$14 million in remote sales tax receipts.
 - B. There are currently 1,800 sellers registered.
 1. There are 264 model one sellers that use a certified service provider to file their returns.
 2. There are 1,536 model four sellers that file their own returns.
- VI. Federal Legislation.
- A. Status and variables.
 1. Senate staffers are fine-tuning language and hope to have a bill ready for a vote by November 25, 2012.
 2. Variables include:
 1. Vendor compensation – how much and for whom, all vendors or just vendors remote to a state?

2. Small seller exception -- \$250,000 in total sales or \$500,000 in total sales? Odds are it will be \$500,000.
3. Effective date -- who gets to start collecting and when?
4. Requirements for states to maintain simplified rules and standardization.

B. Preparations.

1. Department meetings -- staff has been meeting to discuss who will be impacted by remote registrations and collections; what education is needed and for what groups?
2. Consumers Use Tax -- the Department now has a fillable form and an electronic method for taxpayers to pay consumer use tax without a permit. This is in effect a prelude to remote collection.
3. Education and outreach -- Taxpayer education staff is preparing information and education for media and will be speaking at different meetings to help educate sellers and taxpayers.

VII. Future of the Streamlined Sales Tax Governing Board.

- A. When federal legislation is passed, what role will the Governing Board fulfill? One possibility may be to take over the role as an enforcement authority; taking the role of continuing policy development and helping to ensure compliance.

VIII. Next meeting -- wait and see what happens federally. Department will prepare and circulate the Annual Report to the Legislature for review.

IX. Adjourn.